

1 Plaintiff timely requested Appeals Council review of the ALJ'S decision, which was denied on
2 October 29, 2010. (*Id.*)

3 This action was referred to the United States Magistrate Judge pursuant to 28 U.S.C.
4 § 636(b)(1)(B) and District of Nevada Local Rule IB 1-4. In his Report and Recommendation,
5 Judge Ferenbach recommended that this Court enter an order granting the Motion to Affirm
6 (ECF No. 18) and denying the Motion for Remand (ECF No. 16). (ECF No. 20.)

7 **II. LEGAL STANDARD**

8 A party may file specific written objections to the findings and recommendations of a
9 United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B);
10 D. Nev. R. IB 3-2. Upon the filing of such objections, the Court must make a *de novo*
11 determination of those portions of the Report to which objections are made. *Id.* The Court may
12 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
13 Magistrate Judge. 28 U.S.C. § 636(b)(1); D. Nev. IB 3-2(b).

14 **III. DISCUSSION**

15 This court may set aside the Social Security Administration Commissioner's denial of
16 disability benefits only when the findings of the ALJ are based on legal error or are not
17 supported by substantial evidence in the record as a whole. Social Security Act, Sections 216(i),
18 223, 42 U.S.C. §§ 416(i) and 423; *Bustamante v. Massanari*, 262 F.3d 949, 953 (9th Cir. 2001).
19 "Substantial evidence means such relevant evidence as a reasonable mind might accept as
20 adequate to support a conclusion." *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)
21 (internal quotation marks omitted). "Where evidence is susceptible to more than one rational
22 interpretation, it is the ALJ's conclusion that must be upheld. *Id.*

23 Here, Judge Ferenbach found that substantial evidence supports the finding that the
24 evidence submitted upon appeal of the ALJ's decision was properly considered, and that the
25 ALJ properly assessed Plaintiff's credibility. (ECF No. 20.) Having reviewed Plaintiff's

1 objections *de novo*, the Court finds no basis on which to reject Judge Ferenbach's findings and
2 recommendations.

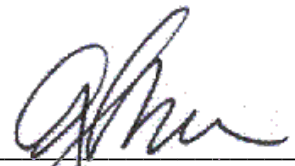
3 **IV. CONCLUSION**

4 **IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 20) be
5 **ACCEPTED** in full, to the extent that it is not inconsistent with this Order.

6 **IT IS FURTHER ORDERED** that the Motion to Affirm (ECF No. 18) is **GRANTED**.

7 **IT IS FURTHER ORDERED** that the Motion for Remand (ECF No. 16) is **DENIED**.

8 **DATED** this 7th day of November, 2013.

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Gloria M. Navarro
United States District Judge